

**BOARD OF COMMISSIONERS
FOR THE
TOWN OF UPPER MARLBORO**

ORDINANCE: 2021-01
SESSION: Regular Town Meeting
INTRODUCED: April 13th, 2021

AN ORDINANCE AMENDING ORDINANCE 2018-07 BY CONTINUING TO PROVIDE FOR THE LICENSING OF ASSOCIATIONS, BANKS AND FINANCIAL INSTITUTIONS, BUSINESS ESTABLISHMENTS, CORPORATIONS, PROFESSIONS AND OTHER BUSINESS ENTITIES DOING BUSINESS IN THE TOWN OF UPPER MARLBORO; AND TO REPEAL THE ANNUAL MUNICIPAL LIQUOR LICENSE FEE; AND TO CHANGE THE TERM OF LICENSURE FROM ANNUAL TO BIENNIAL RENEWALS; AND TO MAKE CERTAIN STYLISTIC AND OTHER NECESSARY CHANGES TO SAID ORDINANCE; AND GENERALLY RELATING TO BUSINESS REGULATION AND LICENSURE

WHEREAS, pursuant to LG Art., § 5-202 of the State Code and § 82-16(1) of the Town Charter, the Board of Commissioners shall have the power to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or this charter as it may deem necessary for the good government of the Town; for the protection and preservation of the Town’s property, rights, and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town and visitors thereto and sojourners therein; and

WHEREAS, pursuant to § 82-16(2)(gg) of the Town Charter, the Board shall have, in addition, the power to pass ordinances not contrary to the laws and Constitution of this State and subject to any restrictions imposed by the public general laws of the State, the power to pass ordinances for the specific purpose of licensing and regulating all persons beginning or conducting transient or permanent business in the Town for the sale of any goods, wares, merchandise, or services, to license and regulate any business, occupation, trade, calling, or place of amusement or business; to establish and collect fees and charges for all licenses and permits issued under the authority of the Charter; and

WHEREAS, pursuant to § 26-104 of the Alcoholic Beverages Article of Md. Ann. Code, a municipal corporation in Prince George’s County may require any liquor license holder for any place of business situated in the municipal corporation to pay to that municipal corporation an additional

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annual license fee not exceeding 20 percent of the fee payable under the provisions of said Article; however, the Board finds it to be in the best interest of the Town to rescind this specific Town license as previously approved in Ordinance 2018-07; and

WHEREAS, the Board of Commissioners finds that the regulation of businesses located within the Town’s corporate limits pursuant to this Ordinance is necessary for regulatory purposes in the interest of the health, welfare, safety or morals of the public, and that it is in the best interest of the Town to further amend Ordinance 2018-07.

NOW, THEREFORE, the Board of Commissioners of the Town of Upper Marlboro, State of Maryland, does ordain and re-enact Ordinance 2018-07, as changed and amended herein below:

Section 1. Purpose and Authority.

A. Purpose – The purpose of this Ordinance is to license any and all associations, corporations, industrial, institutional, rental, research, retail or service business establishments, limited liability corporations or partnerships, and professional associations or corporations doing business in the Town of Upper Marlboro [~~A further purpose of this Ordinance is to require any business owner or establishment who is a holder of a County liquor license to obtain a special supplemental municipal liquor license issued by the Town.~~]

B. Authority – The authority to license business entities operating within the Town of Upper Marlboro and charge a fee is provided for in Section 82-16(2)(gg) of the Town of Upper Marlboro Charter and in Sections 5-204(e) and 5-205(d) of Md. Ann. Code, LG Article. [~~Furthermore, the authority to require any County liquor license holder for any place of business situated in Town to pay to the Town of Upper Marlboro an additional annual license fee is provided for in § 26-104 of the Alcoholic Beverages Article of Md. Ann. Code.~~]

Section 2. Business Licenses Required; [~~Liquor License~~]

[~~A.~~] Business Licenses. No association, business entity, commercial or residential property management association, corporation, entity, industrial, institutional, rental, retail, or service business establishment, limited liability association, corporation or partnership, organization, person or professional association, corporation or partnership shall sell, offer for sale, or otherwise dispose of for any valuable consideration any goods or services or engage in the dispensation of professional services within the Town without first obtaining a business license for such purpose. Excepted are activities conducted by Town organizations for fund-raising, exclusively religious, charitable or educational fund-raising organizations, AND yard sales. [~~and home-based businesses operating in compliance with municipal, county and state laws.~~]

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~~[B. Municipal Liquor License. In addition to obtaining a business license, any place of business located in the Town that holds a liquor license issued by the Board of License Commissioners for Prince George's County shall be required to pay an annual fee to the Town equal to twenty (20) percent of the license or license renewal fee charged by the Board of License Commissioners for Prince George's County. This fee shall be due on or before July 1 of each calendar year. Upon receipt of the fee a Town Supplemental Liquor License will be issued.]~~

Section 3. Multiple establishments.

A. If multiple businesses are conducted on any premises, lot or parcel within the Town, a separate license and fee shall be required for each separate business establishment, unit or use described herein or by resolution adopted pursuant to this Ordinance that is operated on any single premises, lot or parcel located within the Town.

B. If a business conducted on any premises is also conducted on any other premises within the Town, a separate license shall not be required for each branch or separate establishment, provided that warehouses and distribution facilities used in connection with a business are incidental to a business licensed under the provisions of this Ordinance and shall not be deemed to be separate places of business or branch establishments.

Section 4. BI-Annual Renewal of Licenses.

Business Licenses shall be valid for ~~[one year]~~ TWO YEARS, from July 1 through June 30, and must be renewed BI-annually. The Town shall notify all business establishments operating within the Town of the business license application requirement and fee in writing. An application not filed and/or fees not paid within 30 days from the date of the letter sent to the business establishment will be subject to a penalty of \$50.00 and will be subject to an additional penalty of \$25.00 for each month or partial month the business license application is not filed and/or fee is not paid after 60 days from the date of the letter sent to the business establishment. Any business establishment that fails to file an application or pay the business license fee may be reported to the Maryland Office of the Comptroller, Maryland State Department of Assessment & Taxation Personal Property Tax Division, and the Clerk of the Circuit Court in Prince George's County. A business license is not transferable to a new owner or operator of an existing business. Licenses granted for a period after December 31 will be prorated at one-half the scheduled rate.

Section 5. Fees.

A. The fee schedule for this Ordinance as it pertains to certain enumerated businesses shall be set from time to time by resolution of the Board of Town Commissioners.

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B. The fee schedule shall become effective [~~December 31, 2018 for the business licensing year beginning July 1, 2019.~~] JULY 1, 2021, AND WILL SUPERSEDE ANY PRIOR APPROVED FEE SCHEDULES.

Section 6. Business License Application.

A. Each business establishment subject to the provisions of this Ordinance shall file a Business License Application as part of the licensing procedure and shall provide on the application its Maryland State Department of Assessment & Taxation (SDAT) number and its Federal Employer Identification Number. Failure to provide this information shall be considered a violation of this Ordinance. [~~The holder of a liquor license shall file a copy of the issued liquor license of the Board of License Commissioners along with proof of payment of such license fees.~~]

B. Each business establishment subject to the provisions of this Ordinance that owns the property from which the business is operated and fails to file a business license application and/or pay business and/or liquor license fees, fines or penalties imposed by this Ordinance shall result in the amount of any fee, fine or penalty imposed being recorded as a lien against the property and collected in the same manner as delinquent taxes.

C. No application for a business [~~or municipal liquor license~~] will be approved for a business or activity which is in violation of the ordinances or laws of the Town, County or State or which is a nuisance or constitutes a danger to the welfare, health or safety of the Town or the public.

D. All business [~~or municipal liquor~~] licenses issued shall be subject to revocation by the Town if it is shown that the manner in which such business is conducted constitutes a nuisance to the public, or if such business is being conducted in violation of any law or ordinance, or if such business otherwise constitutes a danger to the public health, safety or welfare of the residents of the Town.

Section 7. Property Owner, Property Manager and/or Rental Agent Notification.

The property owner or duly authorized property manager or agent shall be required to notify the Town of the name, address, telephone number, and date a new tenant moves in or an existing tenant relocates to another location owned by the property owner or of the date when a tenant ceases to be a tenant. Failure of the property owner to provide this information within thirty (30) days of the event will be in default and subject to a reasonable penalty as provided in Section 9 of this Ordinance and failure to pay any fine or penalty imposed will result in the amount of any fine or penalty imposed being recorded as a lien against the property and collected in the same manner as delinquent taxes.

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Section 8. Violation; Enforcement.

A. Violation of any provision of this Ordinance shall be a municipal infraction. The penalty for a violation shall be \$50.00 for each initial offense and \$250.00 for each repeat offense. Failure to apply for a Town business license and pay the required fees within the specified time frame as indicated in this Ordinance shall constitute a violation. Such violation shall not be considered corrected until the required application is filed, and the proper fee paid. If an application has not been filed, nor the proper fees paid after the elapse of a 30-day period following the initial due date as stated in the letter of notification, this event shall constitute a separate offense. The Board of Town Commissioners shall have the authority to change the penalties of this Ordinance from time to time by resolution.

B. In addition to the other remedies or penalties provided herein, the Town may institute an action for injunctive, mandamus, or other appropriate action or proceedings to enforce the provision of this Ordinance.

* * *

AND BE IT FURTHER ORDAINED AND ENACTED, by the Board of Commissioners of the Town of Upper Marlboro, Maryland that any prior ordinances adopting and enacting any provision of this Ordinance or any other ordinance or resolution previously adopted pertaining to a subject or subjects embodied by the title of this Ordinance or the provisions found in conflict herein shall be deemed repealed and superseded by the provisions of this Ordinance, and should a previously enacted ordinance cover a provision or subject that is not covered by this Ordinance, it shall remain in full force and effect unless it directly conflicts with the express language of this Ordinance.

AND BE IT FURTHER ORDAINED AND ENACTED, by the Board of Commissioners of the Town of Upper Marlboro, Maryland that this Ordinance shall become effective at the expiration of twenty (20) calendar days following approval by the Board of Commissioners.

AND BE IT FURTHER ORDAINED AND ENACTED, by the Board of Commissioners of the Town of Upper Marlboro, Maryland that it hereby authorizes the Town Administrator and Director of Finance to utilize technology to the Town’s advantage in establishing an online database to manage this licensure program.

AND BE IT FURTHER ORDAINED AND ENACTED, by the Board of Commissioners of the Town of Upper Marlboro, Maryland that this ordinance hereby readopts and ratifies the previously enacted Ordinance 2018-07 with the amendments stated hereinabove along with any resolutions still in effect regarding any fee changes therewith approved by the Board since the enactment of said Ordinance 2018-07 unless the above amendments state otherwise.

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